

**Martin Arsham Sewing Co. and International Ladies
Garment Workers Union, Local 29. Case 8-
CA-11894**

March 30, 1982

**SUPPLEMENTAL DECISION AND
ORDER**

**BY CHAIRMAN VAN DE WATER AND
MEMBERS FANNING AND JENKINS**

On September 7, 1979, the National Labor Relations Board issued its Decision and Order¹ in the above-entitled proceeding in which it adopted the findings and conclusions of the Administrative Law Judge, modified his Order, and required, *inter alia*, that Respondent make whole certain employees for their losses resulting from Respondent's unfair labor practices in violation of Section 8(a)(1), (3), and (5) of the National Labor Relations Act, as amended. A controversy having arisen over the amount of backpay due under the terms of the Order, the Acting Regional Director for Region 8, on March 11, 1981, issued a backpay specification and notice of hearing, alleging the amount of backpay due under the Board's Order, and notifying Respondent that it should file a timely answer complying with the National Labor Relations Board Rules and Regulations, Series 8, as amended. To effect service on Respondent, the backpay specification and notice of hearing was sent by certified mail to Respondent's address and a copy of the same was sent by regular mail to Respondent's counsel. On March 24, Respondent requested an additional 30 days' time for filing its answer to the backpay specification and notice of hearing. Pursuant to the request, the Regional Director granted an extension of time for filing an answer until April 27, 1981. Thereafter, on April 27, 1981, Respondent filed an answer to the complaint which it later withdrew.²

On November 4, 1981, counsel for the General Counsel filed directly with the Board in Washington, D.C., a Motion for Summary Judgment and a brief in support thereof, with exhibits attached. Subsequently, on November 12, 1981, the Board issued an order transferring the proceeding to the Board and a Notice To Show Cause why the General Counsel's Motion for Summary Judgment should not be granted. Respondent has filed no response to the Notice To Show Cause and, accord-

ingly, the allegations of the Motion for Summary Judgment stand uncontroverted.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Upon the entire record in this proceeding, the Board makes the following:

Ruling on the Motion for Summary Judgment

Section 102.54 of the Board's Rules and Regulations provides, in pertinent part, as follows:

(a) . . . The respondent shall, within 15 days from the service of the specification, if any, file an answer thereto

(b) . . . The respondent shall specifically admit, deny, or explain each and every allegation of the specification, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. Denials shall fairly meet the substance of the allegations of the specification denied. When a respondent intends to deny only a part of an allegation, the respondent shall specify so much of it as is true and shall deny only the remainder. As to all matters within the knowledge of the respondent, including but not limited to the various factors entering into the computation of gross backpay, a general denial shall not suffice. . . .

(c) . . . If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without notice to the respondent, find the specification to be true and enter such order as may be appropriate. . . .

The backpay specification, issued and served on Respondent on March 11, 1981, specifically states that Respondent shall, within 15 days from the date of the specification, file an answer to the specification with the Regional Director for Region 8, and that if the answer fails to deny the allegations of the specification in the manner required under the Board's Rules and Regulations, and the failure to do so is not adequately explained, such allegations shall be deemed to be admitted to be true and Respondent shall be precluded from introducing any evidence controverting them.

According to the uncontroverted allegations of the Motion for Summary Judgment, Respondent has withdrawn its answer to the complaint and does not oppose the Motion for Summary Judgment. The withdrawal of an answer necessarily has

¹ 244 NLRB 918.

² In Respondent's withdrawal of its answer to the backpay specification, Respondent withdrew its answer, waived a hearing on issues previously placed in dispute by its withdrawn answer, and stated that it would not file any further response to the backpay specification or contest any motion for summary judgment filed by the General Counsel.

the same effect as a failure to file an answer.³ Respondent did not file a response to the Notice To Show Cause. No good cause to the contrary having been shown, in accordance with the rules set forth above, the allegations of the backpay specification are therefore deemed admitted as true and the Board so finds.

Accordingly, on the basis of the allegations of the specification, which are accepted as true, the Board finds the facts as set forth therein, concludes that the net backpay due each of the employees is as stated in the computations of the specification, and orders that payment thereof be made by Respondent as set forth below.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Martin Arsham Sewing Co., Cleveland, Ohio, its officers, agents, successors, and assigns, shall make whole each of the employees named below by pay-

ment to them of the amounts set forth adjacent to their names, plus interest computed in the manner described in *Florida Steel Corporation*, 231 NLRB 651 (1977) (see, generally, *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1962)), and accrued to the date of payment, minus tax withholdings required by Federal and state laws:

Crystal Cash	\$ 3,001.53
Rebecca	
Clements	1,424.75
Albertha Curry	1,095.44
Charlotte Daye	2,245.39
Wilma Jones	865.79
Magnolia Mays	2,811.61
Gloria McCoy	3,359.96
Marliese Nieves	2,457.40
Ann Patterson	863.91
Mary Patton	2,598.20
Rose Thomas	5,332.90
Sarah White	1,924.38
Diana Whitmore	580.14
Denise Wilcox	2,156.31
Beadell Wilson	1,222.68

³ *Newark Pipeline Company*, 202 NLRB 234 (1973); *Nickey Chevrolet Sales, Inc.*, 199 NLRB 411 (1972).